

CONFERENCE COMMITTEE SUBSTITUTE

FOR

SENATE SUBSTITUTE

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HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NOS. 1665 & 1335

AN ACT

To repeal sections 57.015, 57.201, 57.220, 57.250, 483.140, 544.216, 610.120, and 610.122, RSMo, and to enact in lieu thereof ten new sections relating to the administration of justice, with penalty provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1 Section A. Sections 57.015, 57.201, 57.220, 57.250,
2 483.140, 544.216, 610.120, and 610.122, RSMo, are repealed and
3 ten new sections enacted in lieu thereof, to be known as sections
4 57.015, 57.201, 57.220, 57.250, 407.1150, 483.140, 544.216,
5 610.120, 610.122, and 1, to read as follows:

6 57.015. [As used in this chapter] For purposes of section
7 57.275, the following words and terms shall have the following
8 meaning:

9 (1) "Deputy sheriff" or "officer", any deputy sheriff who
10 is employed full time by a law enforcement agency, authorized by
11 this chapter and certified pursuant to chapter 590. This term

1 shall not include an officer serving in probationary status or
2 one year, whichever is longer, upon initial employment. This
3 term shall not include any deputy sheriff with the rank of
4 lieutenant and above, or any chief deputies, under sheriffs and
5 the command staff as defined by the sheriff's department policy
6 and procedure manual;

7 (2) "Hearing", a closed meeting conducted by a hearing
8 board appointed by the sheriff for the purpose of receiving
9 evidence in order to determine the facts regarding the dismissal
10 of a deputy sheriff. Witnesses to the event that triggered the
11 dismissal may attend the hearing for the limited purpose of
12 providing testimony; the attorney for the deputy dismissed may
13 attend the hearing, but only to serve as an observer; the sheriff
14 and his or her attorney may attend the hearing, but only to serve
15 as an observer;

16 (3) "Hearing board", the individuals appointed by the
17 sheriff for the purpose of receiving evidence in order to
18 determine the facts regarding the dismissal of a deputy sheriff;
19 and

20 (4) "Law enforcement agency", any county sheriff's office
21 of this state that employs county law enforcement deputies
22 authorized by this chapter and certified by chapter 590.

23 57.201. 1. The sheriff of all counties of the first class
24 not having a charter form of government shall appoint such
25 deputies, assistants and other employees as he deems necessary
26 for the proper discharge of the duties of his office and may set
27 their compensation within the limits of the allocations made for
28 that purpose by the county commission. The compensation for the

1 deputies, assistants and employees shall be paid in equal
2 installments out of the county treasury in the same manner as
3 other county employees are paid.

4 2. The assistants and employees shall hold office at the
5 pleasure of the sheriff.

6 3. **[Deputies]** A deputy sheriff, as the term "deputy
7 sheriff" is defined under section 57.015 shall hold office
8 pursuant to the provisions of sections 57.015 and 57.275.

9 57.220. The sheriff, in a county of the second class, shall
10 be entitled to such a number of deputies as a majority of the
11 circuit judges of the circuit court shall deem necessary for the
12 prompt and proper discharge of the duties of the sheriff's
13 office; provided, however, such number of deputies appointed by
14 the sheriff shall not be less than one chief deputy sheriff and
15 one additional deputy for each five thousand inhabitants of the
16 county according to the last decennial census. Such deputies
17 shall be appointed by the sheriff, but no appointment shall
18 become effective until approved by a majority of the circuit
19 judges of the circuit court of the county. A majority of the
20 circuit judges of the circuit court, by agreement with the
21 sheriff, shall fix the salaries of such deputies. A statement of
22 the number of deputies allowed the sheriff, and their
23 compensation, together with the approval of any appointment by
24 such judges of the circuit court, shall be in writing and signed
25 by them and filed by the sheriff with the county commission.

26 **[Deputies]** A deputy sheriff as the term "deputy sheriff" is
27 defined under section 57.015 shall hold office pursuant to the
28 provisions of sections 57.015 and 57.275.

1 57.250. The sheriff in counties of the third and fourth
2 classifications shall be entitled to such number of deputies and
3 assistants, to be appointed by such official, with the approval
4 of a majority of the circuit judges of the circuit court, as such
5 judges shall deem necessary for the prompt and proper discharge
6 of such sheriff's duties relative to the enforcement of the
7 criminal law of this state. Such judges of the circuit court, in
8 their order permitting the sheriff to appoint deputies or
9 assistants, shall fix the compensation of such deputies or
10 assistants. The circuit judges shall annually review their order
11 fixing the number and compensation of the deputies and assistants
12 and in setting such number and compensation shall have due regard
13 for the financial condition of the county. Each such order shall
14 be entered of record and a certified copy thereof shall be filed
15 in the office of the county clerk at least fifteen days prior to
16 the date of the adoption of the county budget as prescribed by
17 section 50.610. The sheriff may at any time discharge any
18 assistant and may regulate the time of such person's employment.
19 **[Deputies]** A deputy sheriff as the term "deputy sheriff" is
20 defined under section 57.015 shall hold office pursuant to the
21 provisions of sections 57.015 and 57.275. At the request of the
22 sheriff, the presiding judge may order additional deputies in
23 cases where exigent or emergency circumstances require the need
24 for such additional deputies.

25 407.1150. 1. As used in this section, the following words
26 and phrases shall mean:

27 (1) "Booking photograph", a photograph of a subject
28 individual that was taken in this state by an arresting law

1 enforcement agency;

2 (2) "Criminal record information", a booking photograph, or
3 the name, address, charges filed, or a description of a subject
4 individual who is asserted or implied to have engaged in illegal
5 conduct;

6 (3) "Subject individual", an individual who was arrested
7 and had his or her photograph taken by law enforcement during the
8 processing of the arrest.

9 2. It shall be unlawful for any person engaged in
10 publishing or otherwise disseminating criminal record information
11 through a print or electronic medium to solicit or accept from a
12 subject individual the payment of a fee or other consideration to
13 remove or correct criminal record information.

14 3. A person who knowingly and willfully violates the
15 provisions of this section shall be guilty of a class A
16 misdemeanor.

17 4. Each payment solicited or accepted in violation of this
18 section constitutes a separate violation.

19 5. In addition to the remedies already provided in this
20 section, any subject individual who suffers a loss or harm as a
21 result of a violation of this section may be awarded an amount
22 equal to ten thousand dollars or actual and punitive damages,
23 whichever is greater, and in addition may be awarded reasonable
24 attorney's fees, court costs, and any other remedies provided by
25 law. Humiliation or embarrassment shall be adequate to show that
26 the plaintiff has incurred damages; however, no physical
27 manifestation of either humiliation or embarrassment is necessary
28 for damages to be shown.

1 483.140. It shall be the special duty of every judge of a
2 court of record to examine into and superintend the manner in
3 which the rolls and records of the court are made up and kept; to
4 prescribe orders that will procure uniformity, regularity and
5 accuracy in the transaction of the business of the court; to
6 require that the records and files be properly maintained and
7 entries be made at the proper times as required by law or supreme
8 court rule, and that the duties of the clerks be performed
9 according to law and supreme court rule; and if any clerk fail to
10 comply with the law, the court shall proceed against him as for a
11 misdemeanor. The provisions of this section shall not be
12 construed to permit the adoption of any local court rule that
13 grants a judge the discretion to remove or direct the removal of
14 any pleading, file, or communication from a court file or record
15 without notification to the parties and providing the parties an
16 opportunity to respond.

17 544.216. Except as otherwise provided in section 544.157,
18 any sheriff or deputy sheriff, any member of the Missouri state
19 highway patrol, and any county or municipal law enforcement
20 officer in this state, except those officers of a political
21 subdivision or municipality having a population of less than two
22 thousand persons or which does not have at least four full-time
23 nonelected peace officers unless such subdivision or municipality
24 has elected to come under and is operating pursuant to the
25 provisions of sections 590.100 to 590.150, may arrest on view,
26 and without a warrant, any person the officer sees violating or
27 who such officer has reasonable grounds to believe has violated
28 any ordinance or law of this state, including a misdemeanor or

1 infraction, [or has violated any ordinance] over which such
2 officer has jurisdiction. Peace officers of a municipality shall
3 have arrest powers, as described in this section, upon lands
4 which are leased or owned by the municipality in an
5 unincorporated area. Ordinances enacted by a municipality,
6 owning or leasing lands outside its boundaries, may be enforced
7 by peace officers of the municipality upon such owned or leased
8 lands. The power of arrest authorized by this section is in
9 addition to all other powers conferred upon law enforcement
10 officers, and shall not be construed so as to limit or restrict
11 any other power of a law enforcement officer.

12 610.120. 1. Except as otherwise provided under section
13 610.124, records required to be closed shall not be destroyed;
14 they shall be inaccessible to the general public and to all
15 persons other than the defendant except as provided in this
16 section and section 43.507. The closed records shall be
17 available to: criminal justice agencies for the administration
18 of criminal justice pursuant to section 43.500, criminal justice
19 employment, screening persons with access to criminal justice
20 facilities, procedures, and sensitive information; to law
21 enforcement agencies for issuance or renewal of a license,
22 permit, certification, or registration of authority from such
23 agency including but not limited to watchmen, security personnel,
24 private investigators, and persons seeking permits to purchase or
25 possess a firearm; those agencies authorized by section 43.543 to
26 submit and when submitting fingerprints to the central
27 repository; the sentencing advisory commission created in section
28 558.019 for the purpose of studying sentencing practices in

1 accordance with section 43.507; to qualified entities for the
2 purpose of screening providers defined in section 43.540; the
3 department of revenue for driver license administration; the
4 division of workers' compensation for the purposes of determining
5 eligibility for crime victims' compensation pursuant to sections
6 595.010 to 595.075, department of health and senior services for
7 the purpose of licensing and regulating facilities and regulating
8 in-home services provider agencies and federal agencies for
9 purposes of criminal justice administration, criminal justice
10 employment, child, elderly, or disabled care, and for such
11 investigative purposes as authorized by law or presidential
12 executive order.

13 2. These records shall be made available only for the
14 purposes and to the entities listed in this section. A criminal
15 justice agency receiving a request for criminal history
16 information under its control may require positive
17 identification, to include fingerprints of the subject of the
18 record search, prior to releasing closed record information.
19 Dissemination of closed and open records from the Missouri
20 criminal records repository shall be in accordance with section
21 43.509. All records which are closed records shall be removed
22 from the records of the courts, administrative agencies, and law
23 enforcement agencies which are available to the public and shall
24 be kept in separate records which are to be held confidential
25 and, where possible, pages of the public record shall be retyped
26 or rewritten omitting those portions of the record which deal
27 with the defendant's case. If retyping or rewriting is not
28 feasible because of the permanent nature of the record books,

1 such record entries shall be blacked out and recopied in a
2 confidential book.

3 610.122. 1. Notwithstanding other provisions of law to the
4 contrary, any record of arrest recorded pursuant to section
5 43.503 may be expunged if:

6 (1) The court determines that the arrest was based on false
7 information and the following conditions exist:

8 [(1)] (a) There is no probable cause, at the time of the
9 action to expunge, to believe the individual committed the
10 offense;

11 [(2)] (b) No charges will be pursued as a result of the
12 arrest; and

13 [(3) The subject of the arrest has no prior or subsequent
14 misdemeanor or felony convictions;

15 (4)] (c) The subject of the arrest did not receive a
16 suspended imposition of sentence for the offense for which the
17 arrest was made or for any offense related to the arrest; [and

18 (5) No civil action is pending relating to the arrest or
19 the records sought to be expunged] or

20 (2) The court determines the person was arrested for, or
21 was subsequently charged with, a misdemeanor offense of chapter
22 303 or any moving violation as the term "moving violation" is
23 defined under section 302.010, except for any intoxication-
24 related traffic offense as "intoxication-related traffic offense"
25 is defined under section 577.023 and:

26 (a) Each such offense or violation related to the arrest
27 was subsequently nolle prossed or dismissed, or the accused was
28 found not guilty of each offense or violation; and

